

ASSEMBLY BILL

No. 593

Introduced by Assembly Member Ma

February 16, 2011

An act to amend Section 1109 of the Evidence Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 593, as introduced, Ma. Domestic violence: evidence.

Under existing law, evidence of a person's character or a trait of his or her character is generally inadmissible when offered to prove his or her conduct on a specified occasion. Existing law provides, however, that when a defendant is accused of domestic violence in a criminal action, evidence of the defendant's prior acts of domestic violence may be admissible under specified circumstances.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1109 of the Evidence Code is amended
2 to read:
3 1109. (a) (1) Except as provided in subdivision (e) or (f), in
4 a criminal action in which the defendant is accused of an offense
5 involving domestic violence, evidence of the defendant's
6 commission of other domestic violence is not made inadmissible

1 by Section 1101 if the evidence is not inadmissible pursuant to
2 Section 352.

3 (2) Except as provided in subdivision (e) or (f), in a criminal
4 action in which the defendant is accused of an offense involving
5 abuse of an elder or dependent person, evidence of the defendant's
6 commission of other abuse of an elder or dependent person is not
7 made inadmissible by Section 1101 if the evidence is not
8 inadmissible pursuant to Section 352.

9 (3) Except as provided in subdivision (e) or (f) and subject to
10 a hearing conducted pursuant to Section 352, which shall include
11 consideration of any corroboration and remoteness in time, in a
12 criminal action in which the defendant is accused of an offense
13 involving child abuse, evidence of the defendant's commission of
14 child abuse is not made inadmissible by Section 1101 if the
15 evidence is not inadmissible pursuant to Section 352. Nothing in
16 this paragraph prohibits or limits the admission of evidence
17 pursuant to subdivision (b) of Section 1101.

18 (b) In an action in which evidence is to be offered under this
19 section, the people shall disclose the evidence to the defendant,
20 including statements of witnesses or a summary of the substance
21 of any testimony that is expected to be offered, in compliance with
22 the provisions of Section 1054.7 of the Penal Code.

23 (c) This section shall not be construed to limit or preclude the
24 admission or consideration of evidence under any other statute or
25 case law.

26 (d) As used in this section:

27 (1) "Abuse of an elder or dependent person" means physical or
28 sexual abuse, neglect, financial abuse, abandonment, isolation,
29 abduction, or other treatment that results in physical harm, pain,
30 or mental suffering, the deprivation of care by a caregiver, or other
31 deprivation by a custodian or provider of goods or services that
32 are necessary to avoid physical harm or mental suffering.

33 (2) "Child abuse" means an act proscribed by Section 273d of
34 the Penal Code.

35 (3) "Domestic violence" has the meaning set forth in Section
36 13700 of the Penal Code. Subject to a hearing conducted pursuant
37 to Section 352, which shall include consideration of any
38 corroboration and remoteness in time, "domestic violence" has
39 the further meaning—as set forth in Section 6211 of the Family

1 Code, if the act occurred no more than five years before the charged
2 offense.

3 (e) Evidence of acts occurring more than 10 years before the
4 charged offense is inadmissible under this section, unless the court
5 determines that the admission of this evidence is in the interest of
6 justice.

7 (f) Evidence of the findings and determinations of administrative
8 agencies regulating the conduct of health facilities licensed under
9 Section 1250 of the Health and Safety Code is inadmissible under
10 this section.